



State of Idaho

DEPARTMENT OF WATER RESOURCES

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MARCH 1, 2012

C. L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Interim Director

WD34 RECHARGE COMMITTEE
C/O MITCHELL SORENSEN
3871 W 2500 N
MOORE, ID 83255

RE: WATER DISTRICTS ARE INSTRUMENTALITIES OF THE STATE

Dear Mr. Sorensen:

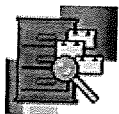
You asked that I provide a short letter documenting our recent telephone conversation during which I explained that Water District No. 34 is a water district as described in Chapter 6 of Title 42 of the Idaho Code. Water districts in Idaho are considered instrumentalities of the State, as described in §42-604, Idaho Code. A copy of that statute is attached and reads in pertinent part as follows:

"Each water district created hereunder shall be considered an instrumentality of the state of Idaho for the purpose of performing the essential governmental function of distribution of water among appropriators under the laws of the state of Idaho."

I trust this letter meets your needs, but if not, or if you have any further questions, please call me or write.

Sincerely,

Nick Miller
Water Distribution Section, IDWR



Idaho Statutes

TITLE 42 IRRIGATION AND DRAINAGE -- WATER RIGHTS AND RECLAMATION

CHAPTER 6 DISTRIBUTION OF WATER AMONG APPROPRIATORS

42-604. CREATION OF WATER DISTRICTS. The director of the department of water resources shall divide the state into water districts in such manner that each public stream and tributaries, or independent source of water supply, shall constitute a water district: provided, that any stream or water supply, when the distance between the extreme points of diversion thereon is more than forty (40) miles, may be divided into two (2) or more water districts: provided, that any stream tributary to another stream may be constituted into a separate water district when the use of the water therefrom does not affect or conflict with the rights to the use of the water of the main stream: provided, that any stream may be divided into two (2) or more water districts, irrespective of the distance between the extreme points of diversion, where the use of the waters of such stream by appropriators in one district does not affect or conflict with the use of the waters of such stream by appropriators outside such district: provided, that this section shall not apply to streams or water supplies whose priorities of appropriation have not been adjudicated by the courts having jurisdiction thereof.

The director may create, revise the boundaries of, or abolish a water district or combine two (2) or more water districts by entry of an order if such action is required in order to properly administer uses of the water resource. Copies of the order shall be sent by regular mail to all holders of rights to the waters affected by the order. The director's order is subject to judicial review as provided in section 42-1701A, Idaho Code.

Before entering an order creating, modifying, or abolishing a district, the director shall, by regular mail, send notice of the proposed action to each water user in the district or proposed district. The notice shall describe the proposed action to be taken, the reasons therefore, the time and place of a hearing to be held concerning the proposed action, and provide a time period within which written comment on the action will be accepted. The hearing shall not be held sooner than ten (10) days after the mailing of the notice, and the written comment period shall not close sooner than ten (10) days after the hearing. Instead of mailing notice, the director may publish notice describing the proposed action, the time and place for the hearing, and the deadline for receiving written comment. The notice shall be published once a week for two (2) weeks in a newspaper or newspapers having general circulation within the district or proposed district, with the second publication appearing at least ten (10) days before the date set for the hearing. The hearing shall be held within the district or proposed district, or at some nearby location convenient to the affected water users.

Each water district created hereunder shall be considered an instrumentality of the state of Idaho for the purpose of performing the essential governmental function of distribution of water among appropriators under the laws of the state of Idaho.

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